

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN

&

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WA.No. 2328 of 2006()

AGAINST THE JUDGEMENT IN WPC.36397/2005 Dated 15/08/2006

APPELLANT: PETITIONERS 1 TO 3

1. REKHA S. VYSAKH,
NEAR L.P.SCHOOL, KALAVOOR, KALAVOOR P.O.,
ALAPPUZHA DISTRICT.
2. AZEENA M.A.,
JOLLY GARDENS, THRIVENI JUNCTION,
ALAPPUZHA.
3. ABDUL JALEEL,
PALAMOOTTIL HOUSE, ZAKARIA BAZAR WARD,
ALAPPUZHA.

BY ADV. SRI.D.SOMASUNDARAM

RESPONDENTS: RESPONDENTS

1. REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.
2. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
PATTOM, THIRUVANANTHAPURAM.
3. ALAPPUZHA DISTRICT CO-OPERATIVE BANK,
REPRESENTED BY ITS GENERAL MANAGER.

BY ADV. SC ALP.DIST.CO OP.BANK
SRI.P.C.SASIDHARAN, SC, KPSC
SRI.V.G.ARUN,SC,ALAPPUZHA DIST.CO.OP.BA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S.RADHAKRISHNAN & ANTONY DOMINIC, JJ

W.A. 2328/2006

Dated this the 31st day of July, 2007

JUDGMENT

Radhakrishnan, J.

Writ petition was preferred by the appellants herein seeking a writ of mandamus directing the respondents to take steps to fill up the remaining vacancies as directed in Ext.P3 judgment and also for a declaration that in view of Ext.P3 judgment, the third respondent is bound to report the 70 vacancies of Clerk/Cashiers in the prescribed format so as to enable the second respondent to issue advice memo to all the candidates eligible to get appointment to the 70 vacancies. Petitioners have also sought a declaration in view of the judgment, the second respondent is bound to issue advice memo to the eligible persons to fill up 70 vacancies with eligible candidates.

2. The learned Single Judge did not accept the plea and dismissed the petition, but noted that the Bank had no objection in filling up the remaining 34 vacancies. Ext.P2 is the final judgment in W.P.(C).34129/2004 which

was disposed of by the learned Single Judge giving a direction to the PSC to issue advice memos to the candidates, as against the vacancies reported following the interim order dated 21st December, 2004. This Court by virtue of the interim order, directed the Bank to report 70 vacancies in the post of Clerk/Cashiers to the PSC provisionally on or before 30.12.2004 and ordered that the PSC need not issue advice memo till further orders. Later, the writ petition was disposed of on 29th August, 2005 directing the PSC to issue advice memos to the candidates as against the vacancies reported following the interim order dated 21.12.2004.

3. Learned Counsel for the petitioners submitted that though there was a direction to report 70 vacancies, only 36 vacancies were reported. Learned counsel appearing for the bank referred to the judgment in Writ Petition No. 34129/2004 and the judgment of the Division Bench in Writ Appeal 2042/2005 which was disposed of along with W.A.2131/2005 on 25th October, 2005, recording the following submission:-

“but a caution appears to be essential.
Seventy vacancies of course have been

reported, we note that it is at the instance of third parties. Some of the documents produced in fact indicate that the Bank had taken a stand, at some point of time, that sufficient vacancies were not there. The vacancies were directed to be reported strictly on a provisional basis and subject to further orders to be passed by this Court. Therefore, directed that even as at present it will be within the right of the District Co-operative Bank to inform the public Service Commission about any decision to reduce the number of vacancies that are to be filled up. The interest of the establishment is to be safeguarded, as excess staff will be a burden, leading to sickness. We are told that the Bank has sustained consistent loss, running to crores, in the past years."

4. Division Bench disposed of the matter directing the Bank to inform actual number of vacancies to the PSC, that are proposed to fill up the same. In other words, the Division Bench had left it to the Bank to decide as to how many vacancies have to be reported. Counsel appearing for the Bank submitted that 36 vacancies had already reported and there was no necessity of reporting further vacancies.

5. The judgment of the Division Bench in W.A.2042/2005 has become final so far as the Bank is

concerned. Further rank list had already expired on 31.12.2004 and therefore, no further direction can be issued at this distance of time.

K.S.RADHAKRISHNAN
Judge

ANTONY DOMINIC
Judge

mrCS